

Enclosure B

Special Conditions

1. Background

Pursuant to 34 CFR §80.12, the Office of Special Education Programs (OSEP) is imposing Special Conditions on Oregon's Federal Fiscal Year (FFY) 2005 grant award under Part C of the Individuals with Disabilities Education Act (Part C) related to a longstanding area of noncompliance, the timely identification and evaluation of infants and toddlers with disabilities. Oregon's Self-Assessment, submitted in December 2001, provided data indicating the State was not in compliance with the requirements in 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a), that evaluations and assessments and initial Individualized Family Service Plan (IFSP) meetings are conducted within 45 days of referral (45-day timeline). OSEP's April 30, 2003 letter accepting Oregon's Improvement Plan (IP) indicated that the State must provide data demonstrating correction of the noncompliance by April 30, 2004. Oregon submitted progress reports on June 16, 2003; October 28, 2003; a Final Report on March 25, 2004; and annual performance reports (APRs) for FFY 2001 on June 24, 2003, for FFY 2002 APR, on March 15, 2004; and for FFY 2003 APR on April 4, 2005. Each of these reports and APRs failed to provide data demonstrating compliance with Part C's 45-day timeline requirement.

2. Basis for Requiring Special Conditions

The State's December 2001 Self-Assessment (page 95) identified systemic noncompliance with the 45-day timeline (through monitoring data reported by the State of its providers). OSEP's April 30, 2003 letter accepting Oregon's Improvement Plan (IP) required the State to provide data demonstrating correction of the noncompliance by April 30, 2004.

No updated data were provided by the State until the State's March 15, 2004 FFY 2002 APR in which the State reported (on pages 32-35) that Area Service Plan data for 2002 showed of the 35 programs, 7 or 20% were in 100% compliance with the 45-day timeline requirement, 11 or 31% in 90% to 99% compliance, 1 or 3% were in 80% to 89% compliance, and 16 or 46% were at 79% or below compliance with the 45-day timeline. In the State's April 4, 2005 FFY 2003 APR, the State reported (on page 56) that three out of eight of its providers, or 38%, were at or above Oregon's compliance threshold of 80% and the percent of programs completing 100% of evaluations and initial IFSP meetings within the 45-day timeline was 18% or six or at most seven out of 33 (18% to 21%).

Pursuant to the Special Conditions, the State must ensure that, by March 30, 2006, it has corrected the noncompliance identified below, and must submit the required documentation on October 28, 2005 and a final Progress Report by April 14, 2006.

3. Nature of the Special Conditions

In the first, progress report, due on October 28, 2005, ODE must provide:

1. Data for July, August and September, 2005 from each of the 26 or 27 provider agencies identified in the State's FFY 2003 APR as being in less than 100% in noncompliance showing the number and percentage of infants and toddlers for whom initial evaluations

and assessments and initial IFSP meetings were conducted: (a) within 45 days from of referral; (b) longer than 45 days from referral and for this number, disaggregating by number any children for which the State has documented explanations due to family circumstances outside the lead agency's control; and

2. Data on the number of 26 or 27 provider agencies identified by the State as not being in 100% compliance with the 45-day timeline requirement in the State's 2003 APR; and for each provider agency determined to be out of compliance, the corrective actions required by the State and evidence or correction data used by the State to determine the district in compliance on the 45-day timeline.

In the second, progress report, due on April 14, 2006, ODE must provide:

3. Updated data for number one above for the period October, 2005 through March, 2006 on the number and percentage of infants and toddlers for whom evaluations and assessments and the initial IFSP meetings were conducted: (a) within 45 days of referral; (b) longer than 45 days from referral and for this number, disaggregating by number any children for which the State has documented explanations due to family circumstances outside the lead agency's control; and
4. An update through the period ending March 30, 2006 on monitoring data and information required in the October 28, 2005 report under number two above.

4. Evidence Necessary for Conditions To Be Removed

The Department will remove the special conditions if, at any time prior to the expiration of the grant year, Oregon provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above, which require Oregon to submit data demonstrating compliance with the area of noncompliance that is the subject of the special conditions under Part C.

5. Method of Requesting Reconsideration

The State can write to Troy R. Justesen if it wishes the Department to reconsider any aspect of these Special Conditions. The request must describe in detail the changes to the Special Conditions sought by the State and the reasons for those requested changes.

6. Submission of Reports

All reports that are required to be submitted by Oregon to the Department under the Special Conditions should be submitted to:

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Attn: Linda Whitsett
400 Maryland Ave, SW
Washington, DC 20202-2550